Equality and Human Rights Commission

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Minutes of the 121st meeting of the Board of the EHRC

Wednesday 16 October 2024 (13:00-17:00)
Online

Attending

Commissioners

Kishwer Falkner (Chairwoman), Lesley Sawers (Interim Deputy Chair), Akua Reindorf, Alasdair Henderson, David Goodhart, Jess Butcher, Joanne Cash, Martyn Jones, Su-Mei Thompson, John Kirkpatrick (Chief Executive).

Officers

Moya Alcock, Director of Communications
Cihan Altan, Chief of Staff
Miriam Bookman, Private Secretary to the Chair
Bill Malloy, Director of Finance, Governance and Planning
Amanda Topham, Head of Corporate Law and Information Governance
Megan Griffiths, Senior Associate – Corporate Governance
Paul Hossack, Principal – Strategy (Item 10)
Martin Crick, Director of Regulation (items 12 and 13)
Ginger Wiegand Compliance Principal - Interventions (item 13)
Beverley Reid, Head of Business Improvement (item 11)

Guests

Helen Anderson, Office for Equality and Opportunity

1. Chairwoman's introduction and apologies

1.1 The Chairwoman welcomed attendees to the meeting.

1.2 The Chair noted apologies from Commissioner Olulode, who is on EHRC business in Brussels.

1.3 Apologies were received from Commissioner Thompson from item 11 onwards.

2. Declarations of interest

2.1 No new declarations of interest were received.

3. Minutes of the 120th Board Meeting and 10 September Special Board Meeting

3.1 The Board approved the minutes of the 120th Board meeting of 18 September 2024 as an accurate record, subject to amendments agreed in the meeting.

3.2 The Board agreed that the Special Board meeting minutes would incorporate comments and be approved by correspondence ahead of the next Board meeting.

ACTION: 10 September Special Board minutes to be recirculated for decision via correspondence.

4. Decisions by Correspondence

4.1 The Board noted its decision by correspondence to agree to the amended Code of Conduct and Governance Manual.

4.2 Moya Alcock updated on an internal communications plan.

5. Actions Arising

5.1 The Board noted the action log.

5.2 In relation to action 120/6.4, it was advised that a further progress update on discriminatory adverts guidance would be provided shortly.

5.3 Action 112/9.1 was recommended for closure as the meeting with the Scottish Human Rights Commission had concluded.

6. Committee and Commissioner Working Group updates

6.1 The Board noted the Committee update papers.

6.2 The ARAC report requested Board approval of the Protocol for the Control of Expenditure at Appendix A, noting that it was updated to outline the role of the Board in financial assurance, per feedback at the meeting of 19 June 2024.

6.3 The Board approved the Protocol for the Control of Expenditure.

6.4 The Chair of the Scotland Committee highlighted:

a) Two recent meetings with the Minister for Equalities and the Minister for Employment and Investment in the Scottish Government.
b) A recent meeting with the Secretary of State for Scotland in the UK Government, who has requested quarterly meetings with the EHRC going forward. The request will be put in writing by the Secretary of State and considered by EHRC officials.
c) A recent meeting with the Scottish Human Rights Commission (SHRC), which focused on justice, economic and social rights, and Scottish Government housing policy.

6.5 The Chair of the Wales Committee highlighted:

a) Recent meetings with the Future Generations Commissioner and the Children's Commissioner.
b) EHRC providing evidence to the equality and social justice committee on the enquiry for Disability rights in the Senedd.

6.6 The Chair of the Commissioner Working Group on Human Rights Monitoring provided an update on:

a) Treaty monitoring underway in relation to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which will report into the new Quality in Public Reporting (QPR) Committee.
b) The publication of a report by the European Commission on Racism and Intolerance on 25 October, with recommendations on EHRC's budget and the race legal support fund.
c) The development of advice on how EHRC awards grants to Civil Society Organisations in the context of financial constraints.

7. Chief Executive update

7.1 The Board noted the CEO report.

7.2 The Chief Executive highlighted:

a) The creation of the Office for Equality and Opportunity (OEO), noting that no change from the responsibilities of the Government Equalities Office was expected. The OEO representative noted that policy responsibility for socioeconomic disadvantage is being incorporated into OEO's work.
b) Commissioners would soon receive a briefing on the Employment Rights Bill and gender pay gap reporting.
c) The First Minister of Wales has set out their priorities and the Welsh Government has withdrawn draft legislation on gender quotas in the Senedd.
d) The Chief Executive will attend the meeting of the European Network of National Human Rights Institutions (ENNHRI)

General Assembly in Brussels on 28 and 29 October. Elections will be held for the next full mandate (from 2025-2028) of the ENNHRI Chair, Board members, Finance Committee, and other governance roles.

e) The Board queried the EHRC's adherence to the Government Functional Standards for Analysis. The CEO provided assurance that the implementation of the evidence strategy would begin to address any shortfalls.

[Redacted due to confidentiality]

ACTION: An update to be provided on the timing of Judicial Review proceedings.

g) The Board discussed EHRC's position as intervener in the Supreme Court case *For Women Scotland v The Scottish Ministers.* [Redacted due to confidentiality]

The Board noted that it was content for the steering group of Commissioners, to direct this activity on their behalf as they had been doing to date, escalating issues as necessary.

h) The Director of Finance, Planning and Governance provided an update on the mid- to long-term financial challenges.

i) The Chair of People and Workplace Committee provided assurance that insight into data relating to human resources, such as absence and attrition, is provided and scrutinised.

7.3 A recent consultation launched and due to end on the 30 November by the Bar Standards Board (BSB) proposing to amend rules relating to equality, diversity and inclusion was discussed.

7.4 The Board agreed that it may wish to respond to this consultation and requested a note from the Chief Executive on

the implications of it as soon as possible, to decide on a response if warranted.

ACTION: Advice and proposals to be provided to the Board on EHRC engagement with the BSB consultation.

8. DWP project Update

8.1 The Chief Executive advised that a constructive meeting with the Secretary of State for Work and Pensions had taken place on 14 October.

9. Approach to AI

9.1 The approach to Artificial Intelligence (AI) and emerging technology is one subject area that will be proposed to Board in November for possible selection within pillar three of the 2025-28 Strategic Plan.

9.2 Commissioners discussed the recommended approach: medium resource and moderately flexible, focusing on compliance in relation to the development, procurement and use of AI and emerging technology.

9.3 The Board expressed support for the recommended approach, recognising that there would be a further detailed discussion on the Strategic Plan at their next meeting in November.

10. Review of Separate and Single-Sex Service Providers: a Guide on the Equality Act Sex and Gender Reassignment Provisions

10.1 The Director of Regulation presented a light touch review of guidance published for providers of separate and single-sex services, reporting good levels of website access, and explaining difficulties gauging the extent to which guidance is driving change.

10.2 The Board agreed to await the outcome of the previous Government's call for input on incorrect guidance and policies before deciding next steps.

11. Updated Risk Register

11.1 The Head of Business Improvement presented a refined risk register following Board feedback in May 2024.

11.2 The Board discussed responsibilities for ownership and management of risk and how the Board, its Committees and the executive should discharge their respective responsibilities. It also commented on the clarity of the heat map and visual narratives, and agreed:

a) To provide feedback on specific risks in the proposed register (Annex A).
b) To continue to review the strategic risk register regularly.
c) There should be internal discussions on responsibility for and management of risk to clarify escalations and consider the arrangements for Executive team ownership of risk.

ACTION: Head of Business Improvement, Interim Deputy Chair and Chairwoman to discuss responsibility for and management of risk.

11.3 It was reiterated that the Framework Agreement with the Cabinet Office is out of date, and a revised document would be relevant to discussions on the governance of risk.

11.4 The Board requested that an update on the issues be provided as a readout, and that it may at that point consider escalation to the Cabinet Office.

ACTION: For the Board to be provided a readout on the Framework Document.

12. Uniformed Services Update

12.1 The Director of Regulation and the Compliance Principal for Interventions presented developments and achievements in the EHRC's work with the uniformed services sector, which includes supporting legal cases, building working relationships with a range of key bodies and advising on framework development from an equality law perspective.

12.2 The Board commended the work of the Uniformed Services project team and noted support for carrying out focused activity with communications opportunities to promote compliance.

12.3 Support was offered, particularly in relation to the work with His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS).

12.4 In discussion, the point was made that EHRC's role must be clear when engaging with organisations in each case, as it can vary from providing guidance role to taking enforcement action.

13. Papers for Note / AOB

13.1 It was requested that the Board Forward Schedule 2025 – 2027 be circulated for comment and agreed by correspondence.

ACTION: Forward Meeting Schedule 2025 to 2027 to be circulated for decision by correspondence.

13.2 The Chair acknowledged the Head of Strategy's upcoming departure from the Commission and thanked him for his contribution.

13.3 The next Board meeting will take place in London on 20 November at Tintagel house.

13.4 The Chairwoman closed the meeting and thanked those in attendance for joining.